

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DOCKET NO. 04-cv-10137-MLW

WILLIAM AYERS,

Plaintiff,

v.

C. P. BOURG, INC.

Defendant.

ASSENTED TO MOTION TO AMEND COMPLAINT

The plaintiff respectfully moves the Court allow him to amend his Complaint pursuant to Fed. R. Civ. P. 15(a).

When a party files a motion for leave to amend, Federal Rule of Civil Procedure 15(a) provides "leave shall be freely given when justice so requires." Fed. R. Civ. P. 15(a); see also Foman v. Davis, 371 U.S. 178, 182 (1962) ; see generally 6 Charles Alan Wright et al., Federal Practice And Procedure §§ 1473 & 1483 (2d ed.1990). The liberal granting of motions for leave to amend reflects the notion that pleadings should allow a claim to be heard on its merits. See Foman, 371 U.S. at 181-82.

As grounds for this motion, the plaintiff states that he wishes to plead with further particularity allegations already set forth in his Complaint previously filed with this Court.

In his Complaint, pursuant to the Federal Rule of Procedure 8, Plaintiff notice pleads factual and legal allegations regarding a claimed violation of the

Massachusetts wage and hour statute M.G.L. c. 149 and the Age Discrimination in Employment Act, 29 U.S.C. § 621. For ease of pleading and trial preparation, Plaintiff seeks to set more specifically enumerate those causes of action. No new factual or legal allegations are contained in the amended pleading and defendant has been on notice of such allegations from at least around the time it terminated him and when Plaintiff filed the underlying complaints with the administrative agencies of the Commonwealth. These causes of action are also enumerated in the Complaint previously filed with this Court.

Justice and judicial economy will be served by allowing the filing of the Amended Complaint as it will assist in ordering discovery and trial preparation to have the claims plead with such particularity. No prejudice will result from this amendment because the parties have not begun discovery nor have they been given a pre-trial schedule by this Court.

Defendant does not oppose this Motion.

CERTIFICATION PURSUANT TO LOCAL RULES 7.1(A)(2) and 37.1(B)

I certify that the parties conferred with regard to this motion and that the defendant's counsel has indicated that the defendant will not oppose the foregoing Motion.

Respectfully submitted,
WILLIAM AYERS
By his Attorney,

Dated: July 13, 2004

/s/ Suzanne Garrow
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above was served on the attorneys of record for the defendant via electronic and first class mail on July 9, 2004.

/s/ Suzanne Garrow
Suzanne Garrow